REMARKS

Claims 39-50, 52, and 53 are pending in the application, with claims 39, 45, 52, and 53 being independent. Claims 39, 45, 52, and 53 have been amended herein to better define the invention. No new matter has been added.

In the Office Action, claims 39-50, 52, and 53 were rejected under 35 U.S.C. § 112, first and second paragraphs. These rejections generally allege that the recitation "informing the user of the fact that the image forming apparatus is under download instead of displaying copying settings" is non-enabled, and that the use of certain terms in the claims renders the claims ambiguous, respectively. Applicants traverse these rejections. Nevertheless, Applicants submit these rejections are obviated by the foregoing amendments to claims 39, 45, 52, and 53. Favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are requested.

Turning now to the art rejections, claims 39-44 and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of U.S. Patent No. 5,787,288 to Nagata et al., in view of JP 08212079A to Senma, further in view of U.S. Patent No. 4,724,462 to Yamasaki et al. or U.S. Patent No. 6,134,711 to Nakamura et al., and further in view of U.S. Patent No. 6,341,373 to Shaw. Claims 45, 47, 48, 50, and 53 were rejected under 35 U.S.C. § 103 as unpatentable over Nagata et al., in view of Senna, and further in view of Yamasaki et al. or Nakamura et al. Applicants traverse these rejections.

In one aspect of the present invention, claim 39 now recites an image forming apparatus including a printing unit, a memory, display means, receiving means, rewriting means, and determination means. The receiving means receives from an external apparatus (1) rewrite

execution codes, which are adapted to execute rewriting of control codes in the memory, in accordance with transfer control codes which are adapted to control transfer of the rewrite execution codes from the external apparatus, and (2) new control codes. The rewriting means rewrites the control codes, which have been stored in the memory, with the new control codes received by the receiving means in accordance with the rewrite execution codes received by the receiving means. The determination means determines, after a power supply is turned on, whether rewriting of the control codes has suspended or failed. If the rewriting of the control codes has suspended or failed, the rewrite execution codes are received from the external apparatus in accordance with the transfer control codes, the new control codes are received from the external apparatus, and the control codes are rewritten with the new control codes in accordance with the rewrite execution codes.

According to claim 45, an image forming apparatus for forming an image in accordance with control codes includes a printing unit, a code memory for storing control codes that are adapted to control the image forming apparatus, and a processor for controlling the image forming apparatus in accordance with the control codes stored in the code memory. After a power supply is turned on and the processor determines that rewriting of control codes has suspended or failed, the processor controls (1) transfer of the rewrite execution codes, which are adapted to execute rewriting of the control codes from an external apparatus, (2) transfer of new control codes from the external apparatus, and (3) rewriting of the control codes, which have been stored in the code memory, with the new control codes transferred from the external apparatus, in accordance with the rewrite execution codes transferred from the external apparatus.

Claim 52 recites a rewrite control method generally corresponding to the apparatus recited in claim 39.

According to claim 53, a rewrite control method for rewriting control codes, which have been stored in a code memory and are adapted to control an image forming apparatus having a printing unit to form an image, includes first through third control steps. After a power supply is turned on and a processor determines that rewriting of control codes has suspended or failed, the third control step controls the rewriting of the control codes with new control codes transferred from the external apparatus in the second control step, in accordance with rewrite execution codes transferred from the external apparatus in the first control step.

Thus, according to each of independent claims 29, 45, 52, and 53, among other features, it is determined, after a power supply has been turned on, whether rewriting of control codes has suspended or failed. If the rewriting has suspended or failed, control codes are rewritten with new control codes transferred from an external apparatus, in accordance with rewrite execution codes transferred from the external apparatus. Support for these features can be found at least in Fig. 4 of the application. Applicants submit that at least these features are not taught or suggested by the cited documents.

Nagata et al. relates to a method and device for renewing an internal program of an apparatus having communication capability, and is understood to teach that a central station transmits a renewal program and an apparatus control program to a facsimile machine.

Senma relates to an image forming device and is understood to teach that, when an image forming apparatus starts download of an execution program, it displays information

indicating that the image forming apparatus is under download on an LCD display part of an operating panel and erases the display at the end of the download.

Yamasaki et al. is directed to a copying machine display device and is understood to be cited merely for teaching an image forming apparatus that has means for turning off all displays except the display indicating an abnormal condition to aid the user in easily identifying the abnormal condition.

Nakamura et al. is directed to upgrading an application software to be used, by communication, and is understood to be cited merely for teaching displaying a message "UNDER UPGRADING."

Shaw is directed to secure data downloading, recovery and upgrading and is understood to disclose that a downloader controls transfer of an updater, and the updated controls transfer and upgrade of application codes.

However, nowhere do any of Nagata et al., Senma, Yamasaki et al., Nakamura et al., or Shaw teach or suggest at least that, if it is determined after a power supply has been turned on that rewriting of control codes has suspended or failed, control codes are rewritten with new control codes transferred from an external apparatus, in accordance with rewrite execution codes transferred from the external apparatus, as recited in independent claims 29, 45, 52, and 53. Moreover, these references cannot be combined to teach such features. Accordingly, reconsideration and withdrawal of the rejections of these claims under 35 U.S.C. § 103 are requested.

The remaining claims depend from one of the independent claims and should be allowable for the same reasons as their respective base claims, and for reciting other patentable

features of the invention. Separate and individual consideration of each dependent claim is respectfully requested.

This Amendment was not presented earlier in the prosecution, inasmuch as it was earnestly believed that the claims heretofore on file were in condition for allowance. It is believed that the Examiner's familiarity with the present application will allow full consideration hereof without the expenditure of undue time and effort.

Applicants submit that this application is in condition for allowance. Favorable reconsideration and an early Notice of Allowance are respectfully sought.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our New York Office at the below-listed address.

Respectfully submitted,

Attorney for Applicants
Michael J. Didas
Registration No. 55,112

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
MJD/ksp

DC_MAIN 172982v1